

Utah coal producer intends to reorganize in Chapter 11 bankruptcy

by Barry Cassell

Hidden Splendor Resources is selling all of its coal, approximately 20,000 tons per month at the moment, to Commonwealth Coal Services for \$24 per ton (f.o.b. mine) and intends to reorganize in Chapter 11 bankruptcy protection.

Those were among the facts contained in a Nov. 20 filing by Hidden Splendor representatives Ann Walker and Alexander Walker III at the U.S. Bankruptcy Court for the District of Nevada. Hidden Splendor controls the Horizon underground coal mine in Utah and sought Chapter 11 in October after Zions First National Bank called loans it had with the company. The Nov. 20 filing was in support of a motion for the bankruptcy judge to allow the company to spend cash collateral that Zions First National has staked a claim on. The Walkers said the cash collateral will need to be spent to keep the company in business and in a position to reorganize.

The Walkers said that the Hidden Splendor assets, such as mining equipment and coal reserves, have a fair market value of \$24 million and a liquidation "fire-sale" value of \$8 million. They noted that the company controls roughly 8 million tons of minable and recoverable coal reserves, enough to sustain the company for at least 10 years. Available coal reserves next door to the company's property would extend the company's life by decades, they said.

The Walkers said that coal production is loaded to truck for either an eight-mile haul to rail or a 12-mile haul to a plant of Rocky Mountain Power. Commonwealth Coal Services is a coal marketing company.

Also in Chapter 11 protection in this same court is Mid-State Services Inc., which provides above-ground support services for the Hidden Splendor mine. There is a pending motion to combine the cases of the two companies.

Hidden Splendor is 100% owned by Reddi Brake Supply Corp. of Nevada and Alexander Walker III is the president of both Reddi Brake and Mid-State Services. Ann Walker is his mother, the Nov. 20 filing says, and is the president of Hidden Splendor. The Nov. 20 filing said that Hidden Splendor is also developing a gold mine in Nevada, but that its only current income is from the Horizon mine.

The Walkers testified that both Hidden Splendor and Mid-State Services can successfully reorganize their finances and pay their creditors.

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Federal judge rejects MSHA order issued to Jim Walter Resources

by Barry Cassell

An administrative law judge at the Federal Mine Safety and Health Review Commission has upheld a summary judgment motion from Jim Walter Resources Inc. in a dispute over new mine seal standards imposed by the U.S. Mine Safety and Health Administration.

In the wake of several mine accidents in 2006, including the deadly explosion at the Sago deep mine in West Virginia, MSHA issued new standards for the strength of underground mine seals, which are constructed to separate old mine workings from active mining areas.

The new standards outlaw relatively lightly constructed "alternative seals" that had been allowed in numerous coal mines.

MSHA issued Program Policy Bulletin No. P06-16 on July 19, 2006, which required operators to assess the atmosphere behind alternative seals, and to take remedial action if concentrations of methane from 3% to 20% were present. On May 22, 2007, MSHA issued an Emergency Temporary Standard that increased strength requirements for newly constructed seals. It also required mine operators to develop and submit for approval protocols for monitoring and maintaining the atmosphere in sealed areas, where the seals were not constructed to withstand 120 pounds per square inch of blast overpressure.

On June 25, an MSHA inspector began a quarterly inspection of JWR's No. 4 longwall mine in Alabama. He reviewed seal examination records required to be kept under the ETS and noted several entries reporting levels of methane within the action range specified in the ETS. He called the MSHA District 11 office and reported the seal examination record entries and told them he would take gas readings at the seals, which he proceeded to do. Readings at several seals were unremarkable.

"However, at 11:23 a.m., he conducted a test at seal 31, and measured methane at 10.0 percent and oxygen at 12.6 percent," said the Nov. 16 ruling by Administrative Law Judge Michael Zielinski. "He took a bottle sample, and waited to take the additional hourly measurements referenced in the ETS. Danny Aldrich, JWR's outby coordinator, who accompanied [MSHA Inspector Danny] Crumpton, called for foam packs as a means to abate the condition. This was consistent with the proposed action plan in JWR's protocol, which had been submitted to, but not yet approved, by MSHA."

Because JWR's protocol and action plan had not yet been approved, the action required by the ETS was the withdrawal of persons from the affected area. Crumpton took no immediate action, though. He proceeded to the next seal, seal 24, and detected 14% methane and 10.5% oxygen. He called MSHA assistant district manager Gary Wirth, who then instructed Crumpton to issue an imminent danger withdrawal order.

During later review, MSHA agreed that the readings at seal 24 were not in the explosive range. Crumpton himself did not conclude that there was, or was not, an imminent danger, the administrative law judge said. The possibility that a roof fall might ignite the gas detected by Crumpton was the only potential ignition source considered by Wirth in making the decision to have Crumpton issue the imminent danger order. At no time did Crumpton note any indications that a roof fall was imminent either behind or near seal 31 or in any other area. Nor did he note any other roof hazards.

"While an inspector has considerable discretion in determining whether an imminent danger exists, that discretion is not without limits," said the Nov. 16 ruling. "An inspector must make a reasonable investigation of the facts, under the circumstances, and must make his determination on the basis of the facts known, or reasonably available to him."

Zielinski added: "JWR's motion challenged Crumpton's decision to issue the order, and the fact that he, admittedly, had not made a determination that an imminent danger existed. The Secretary [of Labor] countered that it was Wirth, who is also an authorized agent of the Secretary, who made the determination to issue the order, and that his exercise of discretion should be sustained. In its reply to the opposition, JWR does not dispute the fact that Wirth made the decision, and that he did not have to be present at the scene to have done so. However, it contends that Wirth must be held to the same 'abuse of discretion' standard that would apply had he been on the scene, and that he clearly abused his discretion in this case."